

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Hearing Aid Dispensers hereby gives Notice of Intended Action to amend Chapter 121, “Licensure of Hearing Aid Dispensers,” Chapter 122, “Continuing Education for Hearing Aid Dispensers,” Chapter 123, “Practice of Hearing Aid Dispensing,” and Chapter 124, “Discipline for Hearing Aid Dispensers,” Iowa Administrative Code.

These proposed amendments revise the definition of the national examination and the examination requirements to be consistent with changes in the national examination; clarify the services required of a licensed hearing aid dispenser following a client medical examination and provide a technical correction in the definition of a sales receipt; remove online programs from the independent study requirements pertaining to continuing education; and modify the requirement for listing the business address in advertisements to be consistent with the requirement for the display of license.

Any interested person may make written comments on the proposed amendments no later than July 8, 2013, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail sharon.dozier@idph.iowa.gov.

A public hearing will be held on July 2, 2013, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 154A and 272C and Iowa Code sections 147.34 and 147.36.

The following amendments are proposed.

ITEM 1. Amend rule **645—121.1(154A)**, definition of “National examination,” as follows:

“*National examination*” means the ~~written~~ standardized licensing examination of the International Hearing Society (IHS) or its successor organization.

ITEM 2. Amend subrule 121.4(3) as follows:

121.4(3) Each application shall be accompanied by the ~~appropriate fees, which include the following:~~ application fee payable to the Board of Hearing Aid Dispensers. The board shall also receive the examination fee payable to the International Hearing Society for any examination held prior to the implementation of the on-line examination.

~~a. Application fee payable to the Board of Hearing Aid Dispensers; and~~

~~b. Examination fee payable to the International Hearing Society.~~

ITEM 3. Amend subrule 121.4(4) as follows:

121.4(4) Examination score results must be received from the ~~testing service~~ International Hearing Society.

ITEM 4. Rescind rule 645—121.5(154A) and adopt the following new rule in lieu thereof:

645—121.5(154A) Examination requirements. The following criteria shall apply to the national standardized licensing examination:

121.5(1) Applicants must pass the national standardized licensing examination. The passing score is the score established by the International Hearing Society.

121.5(2) The applicant shall not take the examination more than three times. If the applicant fails a third examination, the applicant is required to submit a request to the board with a proposed course of study. The board will determine whether the request will be granted.

ITEM 5. Amend subrule 121.6(5) as follows:

121.6(5) Provides official verification of one of the following:

a. A passing score on the national examination. For the written ten-part examination, the passing score is 70 percent ~~on~~ in each subject or 75 percent overall. The International Hearing Society ~~sets~~ establishes the passing score for the ~~five-part competency examination~~ national standardized licensing examination;

b. and *c.* No change.

ITEM 6. Amend paragraph **122.3(2)“b”** as follows:

b. A maximum of 8 hours of credit may be obtained by independent study, ~~including on-line instruction~~. Independent study hours are subject to the requirements stated in the rules in this chapter and in 645—Chapter 4.

ITEM 7. Amend rule **645—123.1(154A)**, definition of “Sales receipt,” as follows:

“*Sales receipt*” means a written record that is provided to a person who purchases a hearing aid, ~~that complies~~. The sales receipt must be in compliance with ~~theses~~ these rules; and ~~that is~~ be signed by the purchaser and the licensed hearing aid dispenser. The requirements for the sales receipt may be found in rule 645—123.3(154A).

ITEM 8. Rescind rule 645—123.2(154A) and adopt the following new rule in lieu thereof:

645—123.2(154A) Requirements prior to sale of a hearing aid.

123.2(1) Except as otherwise stated in these rules, no hearing aid shall be sold to an individual 18 years of age or older unless the individual:

a. Provides a health history to a licensed hearing aid dispenser who is responsible for reducing the history to written form;

b. Presents a physician statement verifying that a medical evaluation, preferably by a physician specializing in diseases of the ear, has been done within the previous six months and stating the individual’s hearing loss and that the individual may benefit from a hearing aid. In lieu of this requirement, the individual may verify in writing that the individual has been informed that it is in the individual’s best health interests to obtain a medical evaluation by a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician, and that the individual chooses to waive said evaluation; and

c. Is given a hearing examination that utilizes appropriate established procedures and instrumentation for the measurement of hearing and the fitting of hearing aids and that includes, but is not limited to, an assessment of the following: air conduction; bone conduction; masking capability; speech reception thresholds; speech discrimination; uncomfortable loudness levels (UCL) and most comfortable levels (MCL).

123.2(2) Any medical evaluation completed by a licensed physician in accordance with these rules requires all of the following prior to the sale of a hearing aid to an individual: receipt of the physician statement and clearance for amplification; and completion by the licensed hearing aid dispenser of a current written health history and hearing examination that includes all of the procedures required in these rules, unless the physician order specifies otherwise. In the event an audiogram is provided by the physician, this testing requirement is waived. All records provided to the licensed hearing aid dispenser shall be maintained in the individual’s records in accordance with the record-keeping requirements in these rules.

123.2(3) Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid dispenser or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid dispenser or person holding a temporary permit shall, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that the individual’s best interests would be served if the individual would consult a licensed physician

specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician:

- a.* Visible congenital or traumatic deformity of the ear.
- b.* History of, or active drainage from the ear within the previous 90 days.
- c.* History of sudden or rapidly progressive hearing loss within the previous 90 days.
- d.* Acute or chronic dizziness.
- e.* Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- f.* Significant air-bone gap (greater than or equal to 15dB ANSI 500, 1000 and 2000 Hz. average).
- g.* Obstruction of the ear canal, by structures of undetermined origin, such as foreign bodies, impacted cerumen, redness, swelling, or tenderness from localized infections of the otherwise normal ear canal.

123.2(4) Testing shall not be required in cases in which replacement hearing aids of the same make or model are sold within one year of the original sale, unless a medical evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

123.2(5) Except as otherwise provided in these rules, for individuals younger than 18 years of age, all of the requirements stated in these rules are applicable. In addition, the following are required:

- a.* Written authorization of a parent or legal guardian consenting to the services covered in these rules, and
- b.* An original signature on all documents required by law or these rules to be signed, including but not limited to, all sales transactions and receipts, required notifications, and warranty agreements.

123.2(6) For individuals 12 years of age or younger, all of the requirements stated in these rules are applicable. In addition, the parent or legal guardian must first present a written, signed recommendation for a hearing aid from a licensed physician specializing in otolaryngology. The recommendation must have been made within the preceding six months. In the event of a lost or damaged hearing aid, a replacement of an identical hearing aid may be provided within one year, unless a medical evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

ITEM 9. Amend subrule 124.2(6) as follows:

124.2(6) Failure to place all of the following in an advertisement relating to hearing aids:

- a.* Hearing aid dispenser's name.
- b.* Hearing aid dispenser's ~~office~~ address of primary site of practice.
- c.* Hearing aid dispenser's telephone number.